

REMARKS

The Office action dated November 16, 2007, and the references cited therein have been received and carefully reviewed.

As a result of the Office action, claims 1, 59, 60, 62, 70-82 and 84-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovell in view of Mikol. These references have been carefully reviewed but are not believed to show or suggest Applicants' invention as claimed. Reconsideration and allowance of the pending claims is therefore respectfully requested in view of the following remarks.

As a preliminary matter, Applicants respectfully submit that the Examiner has not provided a legally tenable "motivation" or "suggestion" to combine the teachings of Lovell and Mikol. The sole evidentiary support that was provided for the motivation to combine the teachings of the references is as follows: " . . . then it would have been obvious as a matter of well known and commonly used engineering principle to increase the thickness of the wall sections as well as the flexure zones so that the wall is more stiff and stronger and the wall is (1) self-supporting and (2) strong enough to withstand the compression of fingers or a hand when held and gripped by a consumer." *Office action*, November 16, 2007, page 3. However, according to MPEP

2143.01, "The level of skill cannot be relied upon to provide the suggestion to combine references." In the absence specific motivation or suggestion taught by the prior art (See MPEP 2143: "The teaching and suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art, and not in applicant's disclosure."), the obviousness rejection appears to have been improperly based solely upon the level of skill in the art. If the Examiner contends that motivation does exist in the prior art to combine the references in order to achieve the claimed invention, Applicants hereby respectfully request legally appropriate documentary proof of such motivation pursuant to MPEP 2144.

In support of the patentability of pending claims, Applicants provide the following comments, wherein each of these comments independently supports the patentability of the claimed invention, such that a combination of these comments is not essential to demonstrate the patentability of the claimed invention.

As previously stated, according to MPEP 2143.01, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then teachings of the references are not sufficient to render the claims *prima facie* obvious. Lovell

teaches that the thickened edges are necessary to prevent the container from collapsing inwardly. Accordingly, any attempt to modify the edges of the pleats in Lovell in order to reduce their thickness, or to combine Lovell with the living hinge structure of Mikol, would render the Lovell container unsatisfactory for its intended purpose as such modification or combination would cause the container to inwardly collapse when normally gripped in use.

Moreover, the expandibility and collapsibility of the container in Lovell is made possible by having the sides of the pleats or wall portions to reverse fold between the open and closed positions, which Applicants believe is necessary to allow the container to expand and collapse. That is to say, the sides of the pleats fold downward when the container is collapsed and the container is expanded, the sides of the pleats unfold and reverse their position to be directed upward. Therefore, it appears that it is necessary to have the edges of the pleats sharply creased and thicker than the sides of the pleats to allow the container to expand and collapse, and any suggestion to either reduce the thickness of the edges of the pleats, or increase the thickness of the sides of the pleats, would render the container non-functional to expand and collapse.

However, the multiple wall sections of the presently claimed container do not reverse fold, but rather, every other section remains upright and does no change its direction when the container adjusts from a collapsed to a more expanded container. That is, the adjacent wall sections have limited flexibility in relation to the respective flexure zones, and therefore, do not reverse fold.

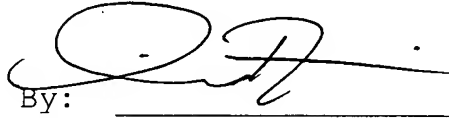
Moreover, the container of the claimed invention is able to adopt a "partially expanded position" by the virtue of having flexure zones which can be independently manipulated to place the wall sections, and the container itself, in a variety of conditions. Again, Applicants believe the reason the container of Lovell cannot be modified so it can adopt a partially expanded position is because it requires the sides of the pleats to be thinner than the edges to allow the sides of the pleats reverse fold.

In view of the foregoing, it is respectfully submitted that independent claims 1 and 59 are allowable over the prior art.

Each issue raised in the Office action dated November 16, 2007, has been addressed and it is believed that claims 1, 59, 60, 62, 70-82 and 84-91 are now in condition for allowance. Wherefore, Applicants respectfully request a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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